

EXHIBIT O
to
Declaration of Stephen Richards

CAPANA SWISS ADVISORS AG vs RYMARK
SHAEN BERNHARDT - 01/24/2025

30(b)(6)
Page 1

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF UTAH
3 -o0o-
4 CAPANA SWISS ADVISORS AG, a)
Swiss corporation; AMERIMARK)
5 AUTOMOTIVE AG, a Swiss)
corporation,)
6)
Plaintiffs,)
7) Case No.: 2:23-cv-00467
v.) Judge Ted Stewart
8)
RYMARK, INC., a Utah)
9 corporation; NICHOLAS THAYNE)
MARKOSIAN, an individual;)
10 JOHN KIRKLAND, an)
individual; and VICKY SMALL,)
11 an individual,)
RULE 30(b)(6) DEPOSITION
12 Defendants.) AMERIMARK AUTOMOTIVE AG
BY: SHAEN BERNHARDT
13)
RYMARK, INC., a Utah)
14 corporation; and NICHOLAS)
THAYNE MARKOSIAN, an)
15 individual,)
16 Counter Claimants,)
17 v.)
18 CAPANA SWISS ADVISORS AG, a)
Swiss corporation, and)
19 Amerimark Automotive AG, a)
Swiss corporation,)
20)
Counter Defendants.)
21)
22
23
24
25

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CAPANA SWISS ADVISORS AG vs RYMARK
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30(b)(6)
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1 RYMARK, INC., a Utah)
corporation; and NICHOLAS)
2 THAYNE MARKOSIAN, an)
individual,)
3)
Third-Party Plaintiffs,)
4)
v.)
5)
SHAEN BERNHARDT, an)
6 individual; ASHLEY MIRON)
LESTEM, an individual; DAVID)
7 HESTERMAN, an individual;)
NICOLAI COLSHORN, an)
8 individual; STEFAN)
KAMMERLANDER, an individual;)
9 ALEXANDER COENEN, an)
individual; MARTIN FASSER)
10 HEEG, an individual;)
AMERIMARK GROUP AG, a Swiss)
11 corporation; and PHILOMAXCAP)
AG, a German corporation,)
12)
Third-Party Defendants.)
13 _____)

14

15 RULE 30(b)(6) DEPOSITION OF AMERIMARK AUTOMOTIVE AG

16 BY: SHAEN BERNHARDT

17

18 Taken on Friday, January 24, 2025

19 At 9:00 a.m. MT

20

21 At Kunzler Bean & Adamson, PC

22 50 West Broadway

23 Suite 1000

24 Salt Lake City, Utah 84101

25 Reported by: Brooke Simms, RPR, CCR, CSR

1 that, yes, he did, and he started the introductory
2 process. But after that, I don't see him anymore in
3 production, from my recollection.

4 Q. Well, he also sent an unsigned share register
5 to Mr. Colshorn on January 24th that included Whitetree
6 and asked Mr. Colshorn to sign it; correct?

7 A. Well, but when you talk about aware of the
8 Whitetree transaction, do we mean the transaction or the
9 end result of the transaction? I know I'm splitting
10 hairs there, but was he involved in the process? I
11 don't know. Certainly he knew who Whitetree was, and he
12 knew who Whitetree was far before this transaction -- is
13 my understanding.

14 Q. As of January 24th, Mr. Leshem was aware of
15 the result of the transaction, which is that Whitetree
16 owned 13 million shares; correct?

17 A. I think that's clear.

18 Q. And we have no idea why he would have told
19 Jeremy Blimbaum otherwise a few weeks later?

20 A. Well, he's wrong on two counts; right? He's
21 wrong on what the actual count would be absent to
22 Whitetree transaction, and he's wrong that the Whitetree
23 transaction is not reflected to what was sent to
24 Blimbaum.

25 Q. I think you testified yesterday that you've

1 had hundreds of conversations with Mr. Leshem in the
2 course of this dispute, before and after the complaint
3 was filed; is that correct?

4 A. So by the course of this dispute, are we
5 talking about since September 16th, 2020, when
6 Mr. Pehrson sent the disavowal letter?

7 Q. Sure.

8 A. Yes. For sure, I've had hundreds of
9 conversations with him.

10 Q. And not one of those hundreds of conversations
11 has touched on this email; correct?

12 A. On that particular email, I don't remember.
13 The Blimbaum email?

14 Q. Yes, the Blimbaum email.

15 A. No. I mean, that's -- I wasn't copied on it.
16 The company's not copied on it.

17 Q. Plaintiffs produced it; correct?

18 A. Yes, it was in the files from somewhere. I
19 think it was -- probably came from Mr. Leshem's files.

20 Q. Yeah, actually. I want to correct myself.
21 Plaintiffs didn't produce this. It came from
22 Mr. Hesterman's production.

23 A. I'm sorry. So thank you.

24 I mean so, no, I haven't had occasion to talk
25 to him about it.

1 REPORTER'S CERTIFICATE

2 STATE OF UTAH)
) SS
3 SALT LAKE COUNTY)

4 I, BROOKE SIMMS, an Idaho Certified Shorthand
5 Reporter, Utah State Certified Court Reporter, and
6 Registered Professional Reporter, hereby certify:

7 THAT the foregoing proceedings were taken
8 before me at the time and place set forth in the caption
9 hereof; that the witness was placed under oath to tell
10 the truth; that a verbatim record of the proceedings was
11 made by me using machine shorthand which was thereafter
12 transcribed under my direction; further, that the
13 foregoing is an accurate transcription thereof taken to
14 the best of my ability.

15 I further certify that I am not a relative or
16 employee of an attorney or party, nor am I financially
17 interested in the action.

18 ☒ Signature was requested.

19 ☐ Signature was waived.

20 ☐ Signature was not requested.

21 I have subscribed my name on this 3rd
22 day of January, 2025.

23

24

25

Brooke J. Simms

Brooke Simms, RPR, CCR, CSR
Idaho CSR No. 1174
Utah CCR No. 12335391-780